



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	<b>03/01/01</b>	Bill No:	<b>SB 1187</b>
Tax:	<b>Transactions and Use</b>	Author:	<b>Costa</b>
Board Position:	<b>Neutral</b>	Related Bills:	<b>AB 1123 (AR&amp;T)</b>

### BILL SUMMARY

This bill would authorize Fresno County to establish a special purpose authority for the support of zoos, zoological facilities, and related zoological purposes in Fresno County and may impose a transactions and use tax of 0.10 percent, subject to two-thirds voter approval, to fund those purposes.

### ANALYSIS

#### Current Law

The Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at 1¼ percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1¼ percent local tax.

Under the Bradley-Burns Law, the ¼ percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for general purposes. Cities are authorized to impose a sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed 1¼ percent.

Under the existing Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax rate of ¼ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all Transactions and Use Tax Law, the maximum allowable rate of transactions and use taxes levied by any district may not exceed 1½ percent, with the exception of San Francisco and San Mateo, whose combined rates may not exceed 1¾ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of ¼ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits a county to form a special purpose authority which may levy a transactions and use tax at the rate of either

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$\frac{1}{4}$  or  $\frac{1}{2}$  percent, with majority voter approval. Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a transactions and use tax rate of  $\frac{1}{4}$  or  $\frac{1}{2}$  percent for purposes of funding drug abuse prevention, crime prevention, health care services, and public education upon majority voter approval. (Board legal staff have taken the position that a special purpose authority may only impose a transactions and use tax if the authority meets the requirements of the section and obtains approval of two-thirds, rather than a majority vote, of the qualified electors in the district.) Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of  $\frac{1}{8}$  or  $\frac{1}{4}$  percent for purposes of funding public libraries, upon two-thirds voter approval.

Section 7262.6 of the Revenue and Taxation Code provides that the Fresno Metropolitan Projects Authority may impose a transactions and use tax rate of 0.10 percent, upon approval by the voters of the “sphere of influence” of the City of Fresno. That tax was imposed from 7/1/93 through 3/21/96, however, it ceased to be operative, as it was declared unconstitutional in *Howard Jarvis Taxpayers’ Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a due to the two-thirds vote requirement for special taxes.

Three transactions and use taxes are currently imposed within Fresno County’s boundaries. The Fresno County Transportation Authority ( $\frac{1}{2}$  percent), the Fresno County Public Library tax ( $\frac{1}{8}$  percent), and the City of Clovis Public Safety tax (0.30 percent). Therefore, the current state and local tax rate throughout most of Fresno County is 7.625 percent. The tax rate in Clovis is 7.925 percent.

The Board performs all functions in the administration and operations of the ordinances imposing the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Taxes. All local jurisdictions imposing these local taxes are required to contract with the Board for administration of these taxes.

### **In General**

Many special districts in California impose transactions and use taxes that are administered by the Board. In Sacramento County, for example, a transactions and use tax of  $\frac{1}{2}$  percent is levied by the Sacramento County Transportation Authority for purposes of funding transportation projects. The first special tax district of this sort was created in 1970 when voters approved the San Francisco Bay Area Rapid Transit District to pay for bonds and notes issued for construction of the BART system. The tax rate in these special taxing districts varies from district to district. Currently, the counties of Fresno, Nevada, Solano, and Stanislaus impose the lowest transactions and use tax rate of  $\frac{1}{8}$  percent. San Francisco City and County has the highest combined transactions and use tax rate of  $1\frac{1}{4}$  percent. The remaining districts impose rates in between these ranges. The various combined state and local tax rates and taxing jurisdictions levying those rates (as of January 1, 2001) is shown on the attached schedule.

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### Proposed Law

This bill would add Chapter 2.85 (commencing with Section 7286.43) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the County of Fresno to establish a special purpose authority for the support of zoos, zoological facilities, and related zoological purposes in Fresno. That authority could then impose a transactions and use tax rate of 0.10 percent, upon two-thirds approval of the authority's governing board and subsequent two-thirds approval of the county's voters. If approved, the revenues generated by the tax could be expended for the support of zoos, zoological facilities, and related zoological purposes in Fresno County. The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This bill also includes findings and declarations that a special law is necessary because of the unique difficulties being experienced by Fresno County's zoological facilities. This bill is an urgency statute that would go into immediate effect upon its enactment, and would therefore require two-thirds Legislative approval.

### COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the Fresno Zoological Society in an effort to raise additional revenues to benefit the county zoos.
2. **It may not be cost effective for some districts to impose a transactions and use tax.** The Board's total administrative costs are driven by the workload involved in processing returns, and are relatively fixed. The cost of administering these taxes is not related to the revenue generated by the tax. However, the ratio of such costs to the amount of revenue generated by a tax varies widely. Therefore, if the tax rate or volume is very low, the ratio will be high. Revenue and Taxation Code Section 7273, as amended by Chapter 890, Statutes of 1998 (AB 836, Sweeney, et al.) and again by Chapter 865, Statutes of 1999 (SB 1302, Rev & Tax Committee) requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transaction and use tax rate below one-quarter of 1 percent is capped at 5 percent of the revenue generated. If Fresno were to impose this tax, it is not expected that the administrative costs would exceed the cap.

In some local taxing jurisdictions, administrative costs do exceed the cap. As a point of perspective, the Board's estimated 2000-01 administrative costs assessments to the existing special taxing jurisdictions range between \$3,000 (City of Avalon Municipal Hospital and Clinic) and \$7.1 million (Los Angeles Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual costs exceeding the amount the Board may charge would impact the General Fund. For 2000-01 the State General Fund is absorbing an estimated \$1,000,000 as a result of the cap limitations on administrative cost recovery.

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3. **Recommended amendments – Ordinance vs. Resolution and two-thirds voter approval clarification.** Under Revenue and Taxation Code Section 7285, a county may adopt a resolution of intent to levy a transactions and use tax, obtain voter approval of the resolution, but then neglect to subsequently enact an ordinance to levy the tax. Without an *ordinance* detailing the specifics of the proposal, the tax cannot go into effect. This omission may not be detected until the county submits the required documents to the board to enable it to enter into a contract to administer the tax. As a result, the ordinance would have to be enacted at the last minute, sometimes risking a delay in implementing the tax. Therefore, the language in the bill should only allow for an ordinance proposing the tax. Also, the bill lists three conditions that must be met in order for the tax to be imposed, yet the language reads “both.” Finally, to avoid any confusion regarding the level of voter approval that would be required for this special-purpose tax, the language in 7286.43(b) should be clarified to specify that a two-thirds vote is required. Therefore, Board staff recommend that Section 7286.43 be amended as follows:

7286.43. In addition to any other authority as provided for by law, the Board of Supervisors of the County of Fresno may establish a special purpose authority for the support of zoos, zoological facilities, and related zoological purposes in that county. Any authority that is so established may, by an ordinance ~~or resolution~~, impose a tax at a rate of 0.1 percent in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), if ~~both~~ all of the following conditions are met:

(a) The ordinance ~~or resolution~~ proposing the tax is approved by two-thirds of the entire membership

(b) The ordinance ~~or resolution~~ proposing that tax is approved by *two-thirds* of the voters of the county ~~as otherwise required by law~~.

(c) The ordinance ~~or resolution~~ proposing that tax requires all revenues, net of refunds, derived from the tax to be expended exclusively for the support of zoos, zoological facilities, and related zoological purposes within the County of Fresno.

4. **Related Legislation.** Assembly Bill 1123 (AR&T) would, among other things, amend Sections 7285, 7285.5, and 7288.3 of the Revenue and Taxation Code, related to transactions and use taxes, to (1) clarify that an ordinance, not a resolution, is necessary for the adoption of the tax; (2) clarify that Section 7285 authorizes counties to levy a transactions and use tax for general purposes; (3) delete the necessity of forming an authority to levy a district tax for special purposes; (4) require two-thirds voter approval of a special-purpose tax; and (5) clarify that transactions and use taxes may be levied in multiples of  $\frac{1}{4}$  percent.

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**COST ESTIMATE**

This bill does not increase administrative costs to the Board because it only authorizes Fresno County to impose a tax. However, if the county passed an ordinance, it would be required to contract with the Board to perform functions related to the ordinance, and reimburse the Board for its preparation costs to administer the ordinance as well as the costs for the Board's ongoing services in actually administering the ordinance. Based on the Board's experience with other special-purpose taxes in Fresno County, it is estimated that the one-time preparatory costs would amount to around \$30,000 and the estimated ongoing administrative costs would range from \$324,000 to a maximum amount capped (see Comment 2) at \$410,000 (\$8.2 million x 5%). As noted in Comment 2, if Fresno were to impose this tax, it is not expected that the administrative costs would exceed the cap.

**REVENUE ESTIMATE**

Taxable sales in the county of Fresno during the 1999-2000 fiscal year were \$8.2 billion. A transactions and use tax at a rate of 0.1% in the county of Fresno would raise about \$8.2 million annually.

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**ATTACHMENT 1**  
**California Sales and Use Tax Rates by County**  
Effective January 1, 2001

<b>01 Alameda</b>	
State	5.75%
Local	1.25%
ACTA	0.50%
BART	0.50%
<b>Total</b>	<b>8.00%</b>

<b>02 Alpine</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>03 Amador</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>04 Butte</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>05 Calaveras</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>06 Colusa</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>07 Contra Costa</b>	
State	5.75%
Local	1.25%
CCTA	0.50%
BART	0.50%
<b>Total</b>	<b>8.00%</b>

<b>08 Del Norte</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>09 El Dorado</b>	
State	5.75%
Local	1.25%
PLPS*	0.25%
<b>Total</b>	<b>7.25%</b>

<b>10 Fresno</b>	
State	5.75%
Local	1.25%
FCTA	0.50%
FCPL	0.125%
CCPS*	0.300%
<b>Total</b>	<b>7.925%</b>

<b>11 Glenn</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>12 Humboldt</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>13 Imperial</b>	
State	5.75%
Local	1.25%
CXHD*	0.50%
IMTA	0.50%
<b>Total</b>	<b>8.00%</b>

<b>14 Inyo</b>	
State	5.75%
Local	1.25%
INRC	0.50%
<b>Total</b>	<b>7.50%</b>

<b>15 Kern</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>16 Kings</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>17 Lake</b>	
State	5.75%
Local	1.25%
CLPS*	0.50%
<b>Total</b>	<b>7.50%</b>

<b>18 Lassen</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>19 Los Angeles</b>	
State	5.75%
Local	1.25%
LATC	0.50%
LACT	0.50%
AMHC*	0.50%
<b>Total</b>	<b>8.50%</b>

<b>20 Madera</b>	
State	5.75%
Local	1.25%
MCTA	0.50%
<b>Total</b>	<b>7.50%</b>

<b>21 Marin</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>22 Mariposa</b>	
State	5.75%
Local	1.25%
MCHA	0.50%
<b>Total</b>	<b>7.50%</b>

<b>23 Mendocino</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>24 Merced</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>25 Modoc</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>26 Mono</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>27 Monterey</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>28 Napa</b>	
State	5.75%
Local	1.25%
NCFP	0.50%
<b>Total</b>	<b>7.50%</b>

<b>29 Nevada</b>	
State	5.75%
Local	1.25%
TRSR*	0.50%
NVPL	0.125%
<b>Total</b>	<b>7.625%</b>

<b>30 Orange</b>	
State	5.75%
Local	1.25%
OCTA	0.50%
<b>Total</b>	<b>7.50%</b>

<b>31 Placer</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>32 Plumas</b>	
State	5.75%
Local	1.25%
<b>Total</b>	<b>7.00%</b>

<b>33 Riverside</b>	State 5.75%	<b>40 San Luis Obispo</b>	State 5.75%	<b>48 Solano</b>	State 5.75%	<b>56 Ventura</b>	State 5.75%
Local 1.25%		Local 1.25%		Local 1.25%		Local 1.25%	
RCTC 0.50%		<b>Total 7.00%</b>		SLPL 0.125%		<b>Total 7.00%</b>	
<b>Total 7.50%</b>				<b>Total 7.125%</b>			
<b>34 Sacramento</b>	State 5.75%	<b>41 San Mateo</b>	State 5.75%	<b>49 Sonoma</b>	State 5.75%	<b>57 Yolo</b>	State 5.75%
Local 1.25%		Local 1.25%		Local 1.25%		Local 1.25%	
STAT 0.50%		SMTA 0.50%		SCOS 0.25%		WOGT* 0.50%	
<b>Total 7.50%</b>		<b>Total 8.00%</b>		<b>Total 7.25%</b>		<b>Total 7.50%</b>	
<b>35 San Benito</b>	State 5.75%	<b>42 Santa Barbara</b>	State 5.75%	<b>50 Stanislaus</b>	State 5.75%	<b>58 Yuba</b>	State 5.75%
Local 1.25%		Local 1.25%		Local 1.25%		Local 1.25%	
<b>Total 7.00%</b>		SBAB 0.50%		STCL 0.125%		<b>Total 7.00%</b>	
		<b>Total 7.50%</b>		<b>Total 7.125%</b>			
<b>36 San Bernardino</b>	State 5.75%	<b>43 Santa Clara</b>	State 5.75%	<b>51 Sutter</b>	State 5.75%		
Local 1.25%		Local 1.25%		Local 1.25%			
SBER 0.50%		SCCT 0.50%		<b>Total 7.00%</b>			
<b>Total 7.50%</b>		SCGF 0.50%					
		<b>Total 8.00%</b>		<b>52 Tehama</b>	State 5.75%		
<b>37 San Diego</b>	State 5.75%	<b>44 Santa Cruz</b>	State 5.75%	Local 1.25%			
Local 1.25%		Local 1.25%		<b>Total 7.00%</b>			
SDTC 0.50%		SCMT 0.50%					
<b>Total 7.50%</b>		SZPL 0.25%		<b>53 Trinity</b>	State 5.75%		
<b>38 San Francisco</b>	State 5.75%	<b>Total 7.75%</b>		Local 1.25%			
Local 1.25%				<b>Total 7.00%</b>			
SFPF 0.25%		<b>45 Shasta</b>	State 5.75%	<b>54 Tulare</b>	State 5.75%		
SFTA 0.50%		Local 1.25%		Local 1.25%			
BART 0.50%		<b>Total 7.00%</b>		<b>Total 7.00%</b>			
<b>Total 8.25%</b>							
<b>39 San Joaquin</b>	State 5.75%	<b>46 Sierra</b>	State 5.75%	<b>55 Tuolumne</b>	State 5.75%		
Local 1.25%		Local 1.25%		Local 1.25%			
SJTA 0.50%		<b>Total 7.00%</b>		<b>Total 7.00%</b>			
<b>Total 7.50%</b>		<b>47 Siskiyou</b>	State 5.75%				
		Local 1.25%					
		<b>Total 7.00%</b>					

\* The tax rate in these districts are not imposed throughout the entire county, and when combined with county-wide tax rates, these districts have a higher total tax rate. The total tax rate displayed for these counties includes the district-only rate.